

REMARKS

In the Office Action, the Examiner rejected Claims 1-21, which are all of the pending claims, under 35 U.S.C. §101 as directed to non-statutory subject matter, and under 35 U.S.C. §102 as being fully anticipated by U.S. Patent 6,041,316 (Allen). Claims 1-13, 20 and 21 were further rejected under 35 U.S.C. §112 as being indefinite. The Examiner also objected to informalities in the drawings.

With respect to the drawings, Applicants are submitting herewith formal drawings for this case. In view of this submission, the Examiner is asked to reconsider and to withdraw the objection to the drawings.

For the reasons set forth below, the rejections of the claims under 35 U.S.C. §§101 and 112 are respectfully traversed. This opportunity is being taken to amend independent Claims 1, 14, 17 and 20 to better define the subject matter of these claims. Also, editorial corrections are being made to Claims 5 and 21.

In rejecting the claims as being non-statutory, the Examiner argued that the claims are directed to descriptive material, and in particular, to a mere application of data. Applicant respectfully disagrees.

While the present invention involves computer processes, the claims do not define merely computer processes. Rather, as defined in the claims, those processes are used in a tangible way to achieve a tangible result - changing or diminishing over time the appearance or performance generated by a computer application.

To elaborate, the present invention is generally directed to methods and systems for encouraging users to purchase software applications after being provided with a trial or demonstration version. To do this, the invention progressively degrades that trial

version - or more precisely, progressively degrades the appearance or performance generated by that trial version - over time so that, on the one hand, the user is able to continue to use the trial version and becomes reliant on the product, while on the other hand, the user becomes so frustrated with the degraded trial version that the user purchases the product.

All of the claims include limitations describing this progressive changing or degrading of the appearance or performance generated by the software application. This is a tangible, perceptible result.

For example, independent Claim 1, as amended herein, includes means, responsive to a timer, to change the appearance or performance generated by a specified application. Also, independent Claims 14 and 20 include the step of providing the trial application with a subprogram to diminish the performance of a main program. Independent Claim 17, which is directed to a system for operating a trial software application, includes means for diminishing the performance of a main program that is part of the trial application.

This feature of changing the performance or appearance of the trial application is a concrete, tangible feature that is more than the mere manipulation of data. It is not merely changing data, but is changing data to achieve a specific, perceptible result.

Accordingly, Claims 1, 14, 17 and 20 are not directed merely to nonfunctional descriptive material. Rather, these claims are directed to statutory subject matter within the meaning of 35 U.S.C. §101. The other claims, Claims 2-13, 15, 16, 18, 19 and 21, are dependent from Claims 1, 14, 17 or 20 and are directed to statutory subject matter for the same reasons that the independent claims are directed to statutory subject matter.

The rejection of Claims 1-13, 20 and 21 under 35 U.S.C. §112 is also traversed. The basis for this rejection is the Examiner's contention that the "functional

limitations in the instant application are not associated with any elements, ingredients, or steps of a process to define a particular capability or purpose that is served by the recited element, ingredient or step.” The Examiner further argues that the claims are generally narrative and indefinite. (Office Action, page 3, line 24 - page 4, line 4.) Applicant respectfully disagrees with these contentions.

Claim 1 clearly indicates that the purpose of the means described in the claim is to change the appearance or performance generated by the specified application. Likewise, Claim 20 expressly indicates that the purpose of the subprogram is to diminish the performance of the main program. Thus, these functional limitations are clearly and directly related to other features or elements described in the claims.

Moreover, it is respectfully submitted that the legal standard for definiteness is whether a claim reasonably apprises those of skill in the art of its scope. Those of ordinary skill in the art would understand the words and terms used in the claims, and how the elements and features of the claims work together to achieve the desired result. Thus, when measured by the above standard, the claims are definite and comply with the requirements of 35 U.S.C. 112, second paragraph. The Examiner is, accordingly, requested to reconsider and to withdraw the rejections of Claims 1-13, 20 and 21 under 35 U.S.C. §112.

With respect to the rejection of the claims under 35 U.S.C. §102, it should be noted that there is an important general difference between the procedure shown in Allen and this invention. With the process disclosed in Allen, the user is initially provided with a program that is partially degraded. With this invention, in contrast, the user is initially provided with an undegraded program, and that program is then degraded over time.

It is noted that, in Column 8, lines 45 and 46, Allen indicates that the initial program may have a time limitation. This appears to be used in the sense that after some time, the program may stop. This is very different from the procedure of this invention, where the performance of the program is not stopped, but is gradually diminished. With this invention, in contrast to this procedure disclosed in Allen, the user is able to use the program after the program's performance begins to diminish.

Independent Claims 1, 14, 17 and 20 are being amended to more clearly describe the above-discussed feature of this invention. In particular, Claim 1 is being amended to include a timer, and to include means, responsive to the timer, to change the appearance or performance generated by the specified application according to a timed procedure. Claims 14 and 20 are being amended to indicate that a subprogram is provided to diminish the performance of the main program over time and in accordance with a timed procedure. Similarly, Claim 17 is being amended to indicate that the diminishing means is responsive to a timer for diminishing the performance of the main program over time and in accordance with a timed procedure.

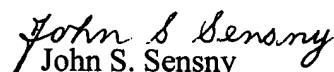
This feature of the invention is of utility because it allows the user to continue to use the program after the performance of the program has begun to diminish. The user is given more time to determine if he or she permanently wants the program while being given a clear message that a decision needs to be made.

The other references of record have been reviewed, and it is believed that these other references, whether they are considered individually or in combination, are no more pertinent than Allen.

Because of the above-discussed differences between Claims 1, 14, 17 and 20 and the prior art and because of the advantages associated with those differences, these claims are not anticipated by and are not obvious in view of that prior art. Consequently, Claims 1, 14, 17 and 20 patentably distinguish over the prior art and are allowable. Claims 2-13 are dependent from Claim 1 and are allowable therewith; and Claims 15 and 16 are dependent from, and are allowable with, Claim 14. Further, Claims 18 and 19 are dependent from Claim 17 and are allowable therewith, and Claim 21 is dependent from, and is allowable with Claim 20. The Examiner is, hence requested to reconsider and to withdraw the rejection of Claims 1-21 under 35 U.S.C. §102, and to allow these claims.

For the reasons advanced above, the Examiner is respectfully asked to reconsider and to withdraw the objection to the drawings, the rejections of Claims 1-21 under 35 U.S.C. §§101 and 102, and the rejection of Claims 1-13, 20 and 21 under 35 U.S.C. §112, and the Examiner is requested to allow Claims 1-21. If the Examiner believes that a telephone conference with Applicant's Attorneys would be advantageous to the disposition of this case, the Examiner is asked to telephone the undersigned.

Respectfully submitted,


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